



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P. O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

Regulatory Division

PUBLIC NOTICE JUL 5 2004

Implementation of an Additional Regional Condition to Nationwide Permits 12, 14, 39 and 40

TO WHOM IT MAY CONCERN: The Jacksonville District, U.S. Army Corps of Engineers (Corps), is circulating this notice to advise the public of recent changes in Nationwide permit (NWP) Regional Conditions regarding the endangered Florida panther.

BACKGROUND:

Before Federal authorization can be given for any activity proposed in a water of the United States, the proposal must be reviewed in light of several Federal laws, including the Endangered Species Act (ESA). As prescribed under Section 7(a)(2) of the ESA and its implementing regulations at 50 CFR Section 402, for every activity proposed for a Department of the Army permit, the Corps is required to evaluate the effects of each proposal on any listed threatened or endangered species or its designated critical habitat. To make the initial determination of the potential effect that each proposal would have on the listed species or designated critical habitat, the Corps has to rely on the best available scientific and commercial data. In the case of the Florida panther, we are aware that the U.S. Fish and Wildlife Service (Service) is in the process of developing a regulatory tool and a conservation strategy for the Florida panther that utilizes new information from the Multi-species/Ecosystem Recovery Implementation Team (MERIT) team. These may be useful to the Corps in its evaluations of an activity's effect on the Florida panther, however, it is our understanding that they will not be available for use until sometime in the future.

On August 8, 2003, the Jacksonville District issued a Public Notice stating we were immediately implementing an interim tool (Florida Panther Key) which the Corps' Project Managers can utilize to assist them in their effect determinations. The Florida Panther Key is used for all projects in the area designated as the "consultation area from the SLOPES" (Florida panther consultation area) on the attached map. This area may be adjusted over time as additional information on the Florida panther is received by the Corps.

In addition, the Public Notice solicited comments on our proposal to add a regional condition to NWPs 12, 14, 39, and 40, which eliminates all thresholds for the preconstruction notification (PCN) requirement. The comments were considered and

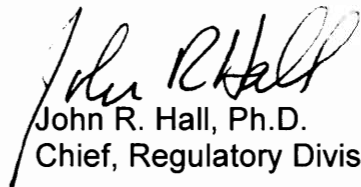
after careful analysis, the South Atlantic Division Commander was asked to add this condition to the four NWPs. On June 25, 2004, the South Atlantic Division Commander approved the addition of this condition to NWPs 12, 14, 39, and 40.

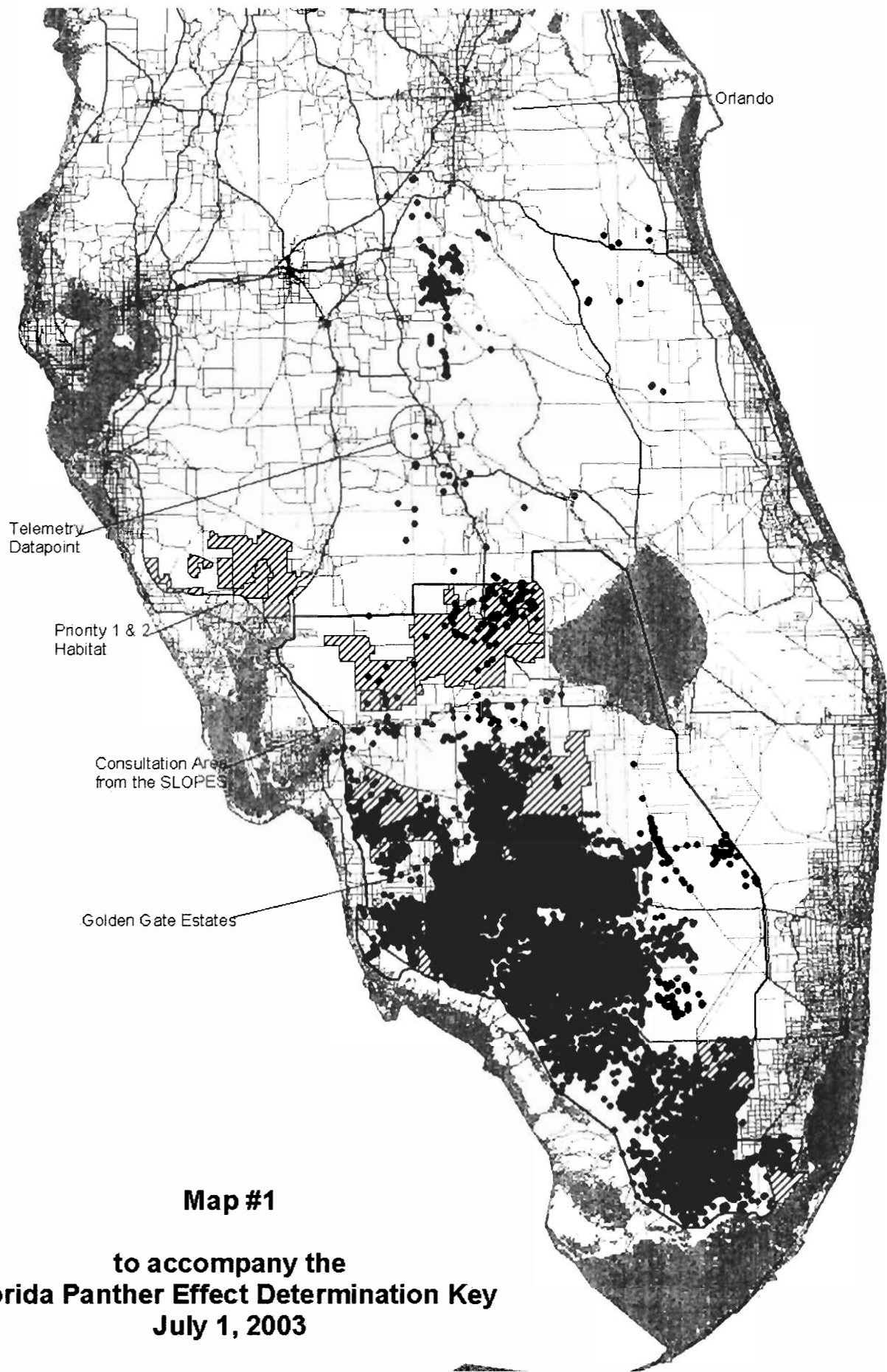
Therefore, to provide additional protection to the Florida panther and to ensure that the general public does not unknowingly violate NWP General Condition #11 and the ESA through the inappropriate use of NWPs 12, 14, 39 and 40, in the Florida panther consultation area, the Corps has added a regional condition to each of those NWPs which eliminates all thresholds for the preconstruction notification (PCN) requirement. This condition will only apply within the Florida panther consultation area. If the thresholds for the PCN are eliminated, all activities proposed in the Florida panther consultation area that could potentially qualify for one of the above-listed NWPs will require a PCN, and will be evaluated by the Corps for potential impacts to the Florida panther. The additional regional condition for NWPs 12, 14, 39 and 40 is:

**Corps-only PCN required prior to the start of any activity
within the Florida panther consultation area.**

This regional condition was effective on the date the South Atlantic Division Commander approved it, June 25, 2004. A copy of all of the NWP Regional Conditions can be found at the Regulatory Division web site at:

<http://www.saj.usace.army.mil/permit>


John R. Hall, Ph.D.
Chief, Regulatory Division



Map #1

to accompany the
Florida Panther Effect Determination Key
July 1, 2003